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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

LEHMAN BROTHERS HOLDINGS INC., *et al.*,

Debtors.

Chapter 11 Case No.

08-13555 (JMP)

(Jointly Administered)

In re

LEHMAN BROTHERS INC.,

Debtor.

Case No. 08-01420 (JMP)
SIPA

**LIMITED OBJECTION OF HWA 555 OWNERS, LLC TO THE STIPULATION AND
ORDER BETWEEN LEHMAN BROTHERS HOLDINGS INC., JAMES W. GIDDENS
AS TRUSTEE FOR LEHMAN BROTHERS INC., BARCLAYS CAPITAL INC., AND BP
399 PARK AVENUE LLC WITH RESPECT TO LEASED PREMISES AT 399 PARK
AVENUE, NEW YORK, NEW YORK AND THE TRANSFER OF FURNITURE,
FIXTURES AND EQUIPMENT THEREIN AND RELATED MATTERS**

HWA 555 Owners, LLC (“HWA”), by and through its undersigned counsel, hereby submits this limited objection (the “Limited Objection”) to the Stipulation and Order between Lehman Brothers Holdings Inc. (“LBHI”), James W. Giddens as Trustee (the “Trustee”) for Lehman Brothers Inc. (“LBI”), Barclays Capital Inc. (“Barclays”), and BP 399 Park Avenue LLC (“399 Park Avenue”) with respect to Leased Premises at 399 Park Avenue, New York, New

York and the Transfer of Furniture, Fixtures and Equipment Therein and Related Matters (the “Stipulation”) [LBHI Docket No. 3428; LBI Docket No. 1022], and respectfully states as follows:

BACKGROUND

1. On its face, the Stipulation purports to relate solely to a lease pertaining to the premises located at 399 Park Avenue, New York, New York (the “399 Park Lease”) and to deal solely with a discrete matter between LBHI, LBI, Barclays and 399 Park Avenue (collectively, the “Parties”). However, instead, included in the Stipulation are several provisions designed to impair HWA’s rights relating to the lease (the “Lease”) between LBI and HWA relating to the 555 California Street premises in San Francisco, California, as to which there is an existing dispute and extant adversary proceeding. In that regard, the Parties, pursuant to paragraph 13 of the Stipulation, attempt to provide a third party release to LBHI and Barclays -- without full disclosure or discussion of the impact -- by providing that neither party “shall have any liability whatsoever to any entity for any damages or costs arising from or relating to the rejection of . . . any of the LBI Leases.”¹ Moreover, notwithstanding the prior assumption of the Lease and the dispute relating thereto, the Stipulation, in Exhibit A, lists the Lease as having been “terminated” on April 17, 2009.

2. As this Court is aware, HWA and LBI have been involved in a dispute concerning the Lease and the Trustee’s assumption of the Lease in connection with the September 2008 sale transaction between LBHI, LB 745 LLC, LBI and Barclays (the “Sale and Assumption Transaction”). As HWA has stated previously, and as the record clearly demonstrates, the Trustee assumed the Lease in connection with the Sale and Assumption

¹ The Lease is identified in the Stipulation as an “LBI Lease.”

Transaction, and such assumption is legally binding.

3. Despite the prior assumption of the Lease, the Trustee has taken the position that the Lease was not assumed pursuant to the Sale and Assumption Transaction, and, on December 26, 2008, the Trustee moved this Court for an order extending LBI's time to assume or reject the Lease (the "Extension Motion"). Pursuant to the Order entered in connection with the Extension Motion (the "Extension Order"), this Court made clear that the Extension Order was "without prejudice to any and all rights and remedies of the Landlord to seek a determination that the Lease was already assumed." Extension Order, ¶ 3.

4. On April 17, 2009, HWA filed a complaint (the "Complaint") commencing an adversary proceeding against LBI seeking, among other things, a judgment declaring that the Trustee assumed the Lease in connection with the Sale and Assumption Transaction.² The pretrial conference in that adversary proceeding has been scheduled for June 24, 2009. No response to the Complaint has yet been filed.

² In footnote one of the Complaint, HWA specifically reserved all of the rights and remedies that it may have in connection with the Lease against LBHI and Barclays. A copy of the Complaint was served on counsel for LBHI and Barclays on April 21, 2009 via first class U.S. mail.

LIMITED OBJECTION

5. Given the prior assumption of the Lease, the Lease can only be rejected by the Trustee in accordance with the requirements of section 365(a) of the Bankruptcy Code, which has not yet occurred. Accordingly, contrary to the Stipulation, the Lease was not deemed rejected or “terminated” as of April 17, 2009. The Lease, therefore, remains in full force and effect.

6. Furthermore, HWA believes that both LBHI and Barclays, and their respective affiliates, may have liability under the Lease to HWA. (As set forth above, both LBHI and Barclays have been put on notice of the same.) The efforts of both LBHI and Barclays to secure third party releases in a Stipulation unrelated to the Lease, to which HWA is not a party, without development of the record, are wholly improper and should not be allowed.

[Continued on next page.]

WHEREFORE, HWA respectfully requests, for all of the reasons set forth herein, that this Court (i) not approve the Stipulation insofar as it relates to any lease other than the 399 Park Lease unless and until the Parties strike any language from the Stipulation declaring that (a) the Lease has been terminated, and (b) LBHI and Barclays shall have no liability for damages or costs arising from a rejection of the Lease; and (ii) grant such other and further relief as the Court deems to be just and appropriate.

Dated: New York, New York
April 30, 2009

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